

Applicants: William C. Olson and Paul J. Maddon  
Serial No.: 09/464,902  
Filed December 16, 1999  
Page 9

#### **REMARKS**

Applicants have hereinabove amended the title of the subject application to reflect the subject matter being claimed. Applicants maintain that this amendment is supported by the specification as originally filed and thus does not raise any issue of new matter.

Claims 110-137 were pending in the subject application. By this Amendment, applicants have amended claims 110, 112, 116-124, 127-130, and 133-137 to more specifically define their invention and to address formalities. Applicants maintain that these amendments are fully supported by the specification as filed, and therefore do not raise any issue of new matter. Indeed, all the amendments are consistent with amendments suggested by the Examiner. Accordingly, applicants respectfully request that the Examiner enter this Amendment. Upon entry of this Amendment, claims 110-137, as amended, will be pending and under examination.

#### **Objections to Claims**

The Examiner objected to claims 116-124, 127-130 and 133-137 because the claims recite the terms "an antibody" and/or "single chain antibody", but these recitations allegedly do not directly refer back to the antibody recited in the independent claim. The Examiner suggested that, to obviate this objection, applicant amend "an antibody" to "said antibody", and "single chain antibody" to "the single chain of said antibody".

In response, and without conceding the correctness of the

Applicants: William C. Olson and Paul J. Maddon  
Serial No.: 09/464,902  
Filed December 16, 1999  
Page 10

Examiner's position, applicants note that the claims have been amended hereinabove in the manner suggested by the Examiner. Accordingly, applicants respectfully request that the instant grounds of objection be withdrawn.

**Rejections under 35 U.S.C. §112, First Paragraph**

The Examiner rejected claims 110-137 under 35 U.S.C. §112, first paragraph, as allegedly failing to comply with the written description requirement. The Examiner stated that the claims contain subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventors, at the time the application was filed, had possession of the claimed invention.

The Examiner noted that the claims are directed to an isolated nucleic acid encoding a polypeptide comprising three CDR regions of one of six listed antibodies, wherein said polypeptide binds to an epitope of CCR5 when combined with a second polypeptide. The Examiner stated that the instant written description rejection is directed at the second polypeptide. The Examiner asserted that in the instant case, the specification only discloses one species of second polypeptide per listed antibody, whereas the claims are directed to a genus of second polypeptides.

The Examiner stated that to provide an adequate written description and evidence of possession of a claimed genus, the specification must provide sufficient description of a representative number of species by (i) actual reduction to practice, (ii) reduction to drawings, or (iii) disclosure of relevant identifying characteristics. The Examiner further

Applicants: William C. Olson and Paul J. Maddon  
Serial No.: 09/464,902  
Filed December 16, 1999  
Page 11

stated that factors to be considered for the latter requirement include disclosure of:

- complete or partial structure;
- physical and/or chemical properties;
- functional characteristics;
- correlation between structure and function; and
- methods of making.

The Examiner addressed each of the above-listed criteria and asserted that the specification does satisfy any of these requirements for sufficiently describing a representative number of species of second polypeptides. The Examiner concluded that the description of only the one species of second polypeptides for each of the listed antibodies, but not the description of the full breadth of the claimed subject matter, satisfies the written description requirement of 35 U.S.C. §112, first paragraph.

The Examiner suggested that, to overcome the instant rejection, applicants amend the recitation "wherein the polypeptide in combination with a second polypeptide" to "wherein the polypeptide in combination with a heavy/light chain of an anti-CCR5 antibody".

In response, without conceding the correctness of the Examiner's position, applicants note that independent claim 110, as amended, recites the element "wherein the polypeptide in combination with a polypeptide comprising a light chain of an anti-CCR5 antibody or a portion thereof containing three CDR regions". Independent claim 112, as amended, recites the element "wherein the polypeptide in combination with a polypeptide comprising a heavy chain of an anti-CCR5 antibody

Applicants: William C. Olson and Paul J. Maddon  
Serial No.: 09/464,902  
Filed December 16, 1999  
Page 12

or a portion thereof containing three CDR regions". Applicants maintain that these amendments are consistent with the Examiner's suggested amendments in that they identify the "second polypeptide" as related to the light or heavy chain of the anti-CCR5 antibody, respectively. Claims 111 and 113-137 all depend, directly or indirectly, from claims 110 or 112, and therefore also possess the elements recited in claims 110 or 112, as amended. Since the Examiner stated that these amendments would obviate the instant ground of rejection, applicants respectfully request that this ground of rejection be withdrawn.

#### **Conclusion**

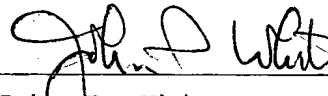
Applicants refer to the Examiner's statement on page 7 of the Office Action that the claims would be allowable if applicants adopt the suggestions provided therein. In view of the foregoing remarks and the claim amendments presented hereinabove which are consistent with the Examiner's suggestions, applicants maintain that the claims, as amended, are in condition for allowance. Accordingly, applicants earnestly solicit allowance of the claims now pending in the subject application.

If a telephone interview would be of assistance in advancing prosecution of the subject application, applicants' undersigned attorney invites the Examiner to telephone him at the number provided below.

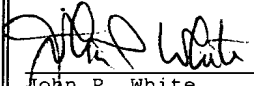
Applicants: William C. Olson and Paul J. Maddon  
Serial No.: 09/464,902  
Filed December 16, 1999  
Page 13

No fee is deemed necessary in connection with the filing of this Amendment. However, if any fee is required, authorization is hereby given to charge the amount of any such fee to Deposit Account No. 03-3125.

Respectfully submitted,



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I hereby certify that this correspondence is being deposited this date with the U.S. Postal Service with sufficient postage as first class mail in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.	
 John P. White Reg. No. 28,678	1/23/06 Date